

II. REMARKS

Upon entry of this Amendment, claims 1-7, 9-20, 22-50, and 52-62 are pending. Claims 1, 3-7, 9, 10, 14, 15, 17, 20, 22-25, 28-32, 36-38, 40, 41, 44-50, 52-54, and 59-62 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,278,938 to *Alumbaugh*. Claims 2, 11-13, 16, 18, 19, 26, 27, 33, 34, 42, 43, and 55-58 stand rejected under 35 U.S.C. §103(a) as obvious in light of *Alumbaugh*. Claims 35 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Claims 35 and 39 have been so rewritten. The claims, as amended, traverse the Examiner's objections and rejections. No new matter is submitted.

Applicant respectfully traverses the allegation in the present Office Action that the Applicant's arguments (filed 6 May 2003) with respect to claims 1-7, 9-20, 22-50 and 52-62 have been considered but are moot in view of the new ground(s) of rejection. Applicant respectfully submits that there are no new grounds of rejection. Applicant submits that the arguments filed 6 May 2003 were in response to an Office Action mailed 6/5/2003 that contained a rejection under 35 USC §102 as anticipated by *Alumbaugh* (U.S. Pat. No. 6,278,938) and a rejection under 35 USC §103 as obvious over *Alumbaugh* (U.S. Pat. No. 6,278,938).

The present Office Action contains a rejection under 35 USC §102 as anticipated by *Alumbaugh* (U.S. Pat. No. 6,278,938) and a rejection under 35 USC §103 as obvious over *Alumbaugh* (U.S. Pat. No. 6,278,938). Moreover, the present Office Action presents the same arguments as the previous Office Action. Applicant therefore respectfully traverses the allegation in the present Office Action that the Applicant's arguments (filed 6 May 2003) with respect to claims 1-7, 9-20, 22-50 and 52-62 have been considered but are moot in view of the new ground(s) of rejection.

CLAIM REJECTIONS

A. Claim Rejections Under 35 U.S.C. § 102.

The Examiner rejects claims 1, 3 - 7, 9, 10, 14-15, 17, 20, 22 - 25, 28 - 32, 36 - 38, 40 - 41, 44 - 50, 52 - 54 and 59-62 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,278,938 to *Alumbaugh* ("*Alumbaugh*"). Applicant respectfully traverses this rejection for the following reasons.

Before addressing the claims, it may be helpful to mention the Specification. The Specification mentions that “MedLink® services are provided on common carriers, such as commercial airlines; to private aircraft; to military and private maritime vessels...” (p. 2, lines 5-6). The Specification also mentions a passenger on a commercial flight who suffers a concussion midway between Belize and Tokyo (Specification, p. 2, lines 14-15).

It will be appreciated that common carriers such as commercial airlines, private aircraft; military and private maritime vessels, and commercial flights that are midway between Belize and Tokyo might not be near a medical facility, but may be headed in a direction toward a medical facility. It will also be appreciated that concussions and other medical emergencies are not always suffered near a “waypoint” or a “point-of-interest.”

Alumbaugh teaches a travel guide device that includes a GPS receiver for determining a present location (Abstract). *Alumbaugh* teaches “getting the current location GPS coordinates from the GPS receiver and determining “whether a match may be determined for the point-of-interest entries within the database. This determination may involve ascertaining whether the vehicle is within a range of distances from the GPS coordinates of the point-of-interest location...” (col. 5, lines 40-46) *Alumbaugh* does not provide output continuously; rather, *Alumbaugh* provides output when the vehicle is “within a range of distances from the GPS coordinates of the point-of-interest location.”

Alumbaugh teaches “computations relating to the vehicle speed,” but only to start playing narration a few moments early; the “offset associated with the narrations information (based on a length of the narration information)” is “used to determine whether the narration should be started for timely presentation.” (column 5, lines 48-50.) *Alumbaugh* also teaches that if no matching point-of-interest entry is identified, “the process simply returns to step 311 for updated GPS coordinates and continues making the point-of-interest determinations until a suitable playback device is turned on within the vehicle.” (col 5, lines 57-61).

Alumbaugh’s shortcomings are further evidenced in Figs. 3C and 3D of *Alumbaugh*. These figures show that the travel route is compared with the database to identify the points of interest (e.g., medical facilities). Fig. 3C clearly states in box 311 that it is the “current location” (identified by GPS coordinates) that is compared to the database, not a mapped travel route. Respectfully, the current location of a vehicle is not a travel route and thus *Alumbaugh* is not

analogous to Applicant's invention which compares a mapped travel route with a database to identify and prepare and output of medical facilities as claimed by Applicant. See for example, Merriam-Webster online Collegiate Dictionary (www.m-w.com), which defines a "route" as *an assigned territory to be systematically covered*.

Therefore *Alumbaugh* does not teach or suggest at least the following limitations of claim 1 (and claims 2-7 and 8-19 by virtue of their dependency thereon): (a) *mapping a travel route and comparing the travel route with a database of medical facilities*, (b) *identifying one or more medical facilities along the travel route based on the comparison*, or (c) *preparing an output of the identified medical facilities along the travel route the output including a name and address for each identified medical facility*. *Alumbaugh* does not disclose *mapping a travel route and comparing the mapped travel route with the database of medical facilities or identifying medical facilities along the mapped travel route based on the comparison*.

Comparing coordinates of a current location of a vehicle with a database is different than comparing a travel route to a database. For example, *Alumbaugh's* system requires that a GPS receiver be present on board the vehicle. By way of contrast, with Applicant's invention, the traveler does not require a GPS receiver but may simply refer to an output of the identified medical facilities along the travel route (which may be prepared prior to even traveling).

For at least the foregoing reasons, Applicant submits *Alumbaugh* does not teach or suggest Applicant's invention recited in claim 1 and thus claim 1 and the claims depending there from (claims 3-7, 9-10, 14-15, 17) are patentable over *Alumbaugh*.

Still another shortcoming of *Alumbaugh* is the location of the database 214 of the travel guide device 200 within the vehicle itself (e.g., on a CD, CDROM or DVD). (Col. 3, ll. 5-9; *see also*, col. 2, ll.37). Fig. 1 depicts vehicle 104 receiving information from GPS satellites 102 (a-n) as opposed to any communications link with a database that is remote from the vehicle (*See*, col. 2, ll. 32-37). GPS satellites 102 are clearly not a database. In fact, *Alumbaugh* expressly teaches away from *establishing a non-verbal communications link between the vehicle and the database* by disclosing that the travel guide device 200 includes a database 214 in the vehicle itself (e.g., on a CD, CDROM or DVD). (Col. 3, ll. 5-9; *see also*, col. 2, ll.37).

In contrast, independent claim 20 further includes establishing a non-verbal communications link between the vehicle and the database. *Alumbaugh* does not disclose, and in

fact teaches away from, the claim 20 limitation of *communicating the name and location of the identified medical facility to the person via the non-verbal communications link*. For at least these reasons, claims 20 and claims 22-25 and 28 (which depend from claim 20 and thus include the same limitations as claim 20) are not anticipated or rendered obvious by *Alumbaugh*.

With respect to independent claim 29 and claims 30-32, 36-38 and 40-41 (which depend from claim 29 and thus include its limitations) as discussed above, *Alumbaugh* fails to disclose or suggest comparing a travel route to a database containing medical facilities.

With respect to independent claim 44 and claims 45-49 (which depend from claim 44), Applicant submits that *Alumbaugh* does not teach or suggest the claimed *processor operative to compare the aircraft location information with the database containing information relating to a plurality of medical facilities and identify at least one medical facility along the travel route of the aircraft based on the comparison or a display operative to show the identified at least on medical facility along the travel route of the aircraft*.

While *Alumbaugh* mentions that the travel guide device could be used for aircraft (col. 2, ll. 46) and subsequently that medical facilities could be included in a directory (col. 10, ll. 24), *Alumbaugh* does not explain how the invention would work for aircraft or suggest that the location of medical facilities along a travel route would be desirable to know for aircraft. Claim 44, in particular, has previously been amended to recite that both the medical facility and the corresponding airport are identified by the processor and displayed on the display. It is respectfully submitted that *Alumbaugh* does not teach or remotely suggest identifying a medical facility and its corresponding airport, and thus does not anticipate or render obvious claim 44 and the claims that depend there from.

Because *Alumbaugh* does not teach or suggest identifying or displaying medical facilities and corresponding airports along the travel route of the aircraft, *Alumbaugh* does not anticipate or render obvious claims 44-49. Further, claim 48 includes the limitation where the display comprises a printing device which also does not appear to be taught or suggested by *Alumbaugh*.

In respect to independent claim 50 and claims 52-54 which depend from claim 50, Applicant respectfully submits that *Alumbaugh* does not teach or suggest *identifying at least one medical facility and a corresponding landing location which is near the current location of the aircraft based on the comparison or displaying the corresponding landing location for the at*

least one medical facility to a user in the aircraft. Accordingly, claims 50 and 52-54 are patentable over *Alumbaugh*.

Independent claim 59 recites *code for comparing the travel route with information in a medical facility database* and independent claim 60 (and claims 61-62 by virtue of their dependency on claim 60) recites input means for *inputting travel location information and processing means for comparing inputted travel location information* with a database containing medical facility information. Claim 61 recites that the processing means (which does the comparison) comprises a website server. These limitations are not taught or suggested by *Alumbaugh*, as discussed previously, and thus these claims are not anticipated or rendered obvious.

For all the foregoing reasons, Applicant respectfully requests the Examiner to reconsider and withdraw the §102(b) rejection based on *Alumbaugh*.

B. Claim Rejections Under 35 U.S.C. § 103.

Claims 2, 11 – 13, 16, 18, 19, 26, 27, 33, 34, 42, 43 and 55 – 58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Alumbaugh*. Applicant respectfully traverses this rejection for the following reasons.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103, three requirements must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (MPEP 2143). *Alumbaugh* does not render obvious any of the pending claims because: (1) it fails to teach or suggest each and every element of the pending claims, and (2) it actually teaches away from the claimed inventions.

The Examiner alleges that *Alumbaugh* teaches all of the limitations of the claims except for “making the travel route to identify medical facilities a flight plan carried on board an aircraft.” The Examiner further alleges that since *Alumbaugh* mentions the word aircraft once,

that all the limitations not expressly disclosed would be obvious. Applicant respectfully disagrees.

Applicant seasonably challenges this assertion and requests that the Examiner provide some evidence (e.g., a prior art reference) to support such an assertion. (See MPEP 2144.03) “Although a prior art device may be capable of being modified to run the way the apparatus is claimed, [to establish *prima facie* obviousness] there must be a suggestion or motivation in the reference to do so.” In re Mills 16 USPQ2d 1430 (Fed. Cir. 1990). Conclusory statements of similarity or motivation, without any articulated rationale or evidentiary support, do not constitute sufficient factual findings to support a 35 U.S.C. § 103 ground of rejection. *Id.*

The Examiner’s reasoning for modifying *Alumbaugh* to meet Applicant’s claims is allegedly derived from *Alumbaugh* itself. However, since the *Alumbaugh* invention is dedicated solely to real-time or near real-time identification of points of interest, in contrast to many embodiments of Applicant’s invention that may be performed in advance of traveling as described in Applicant’s specification, the features of Applicant’s claims would not be rendered obvious based on *Alumbaugh* alone. Accordingly, the reasoning set forth in the present Office Action appears more likely to be impermissibly based on improper hindsight of Applicant’s specification and, in any event, is insufficient to support any *prima facie* case of obviousness.

Applicant submits that *Alumbaugh* teaches away from most of Applicant’s claims which compare a route for travel, as opposed to a current location of a vehicle, to the database to identify medical facilities. As discussed above, *Alumbaugh* merely compares current GPS coordinates of a vehicle with its database and determines nearby points of interest in a real-time fashion. *Alumbaugh* does not disclose any specific way of selecting which points of interest should be identified by the travel guide. Other than the brief mention in *Alumbaugh* at col. 10, ll. 24, that the directory of locations could include medical facilities, there is no mention regarding whether a user could even select to be notified of nearby medical facilities or whether they would merely be identified when the user’s GPS coordinates are near the medical facility. Furthermore, there is no teaching or suggestion of what kind of information would be stored regarding medical facilities.

Each of Applicant’s claims includes features that simply are not disclosed or suggested by *Alumbaugh* and thus a *prima facie* case of obviousness has not been established. Such

features include, among others: *mapping a travel route* which is compared to the database to identify medical facilities; outputting a *quality rating* for the identified medical facilities; specific information in the database relating to each medical facility including *language spoken, hours of operation, cleanliness, available emergency equipment, types of medical emergencies handled, suitable stopping points or airports near the medical facility, overall quality rating, one or more offered medical specialties, and payment methods accepted*. Other features not disclosed or suggested by *Alumbaugh* include: the communications link *between the vehicle and the database*; the *travel route being a flight plan* (it is noted that a flight plan is generated before aircraft travel even begins); displaying *the travel route and identified medical facilities* on an electronic screen or printed document; downloading and storing information pertaining to *identified* medical facilities; manual mapping of the travel route, and/or processing means comprising a website server.

It is simply improper for the Examiner to assume these features would be obvious based on a single occurrence of the word “aircraft” in *Alumbaugh*.

For the reasons stated above, claims 2, 11 – 13, 16, 18, 19, 26, 27, 33, 34, 42, 43 and 55 – 58 are not obvious over *Alumbaugh* and Applicant respectfully requests the Examiner to reconsider and withdraw the §103(a) rejections based thereon.

C. Allowable Subject Matter

Applicant gratefully acknowledges the Examiner’s courtesies during a telephone conference on March 1, 2005, and the determination of allowable subject matter.

III. CONCLUSION

Reconsideration is respectfully requested. Applicants believe the case is in condition for allowance and respectfully request withdrawal of the rejections and allowance of the pending claims.

Applicants hereby petition for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to **Deposit Account No. 19-3878**.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

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